



September 6, 2005

John Tanner
U.S. Department of Justice
Voting Section – Rm. 7243 – NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Tanner,

In response to your letter of August 26, 2005, the following is the information you requested.

Washington State has adopted the requirements of Sections 301 and 303(a) of HAVA, 42 U.S.C. 15483(a) into our own Revised Code of Washington, Title 29A, and will implement these requirements for every election after January 1, 2006. This means that Washington State is not only making every effort to ensure that all 39 counties will have a voting system in place for use in the next election for Federal office, but will be using such systems in all future state elections.

The following responds to your specific questions on Section 301 compliance.

- (1) The next election for federal office in Washington State is a primary on September 19, 2006, followed by the general election on November 7.
- (2) By January 1, 2006, all voting systems used in Washington State will meet all requirements of Section 301 with the exception of the disability access requirements in Section 301 (3). The vendors who have systems in Washington plan to have their DRE systems upgraded to meet the requirements of Section 301 and have them certified in Washington by December 2005/January 2006.

All the voting systems used in Washington permit voters to verify their votes before the ballot is cast and counted as required in Section 301 (1.A.i and ii).

All polling place tabulation devices used in Washington notify voters of overvoted ballots and provide the opportunity to correct and resubmit the ballot per Section 301 (1.A.iii). State law also requires the voter be given the same notification when the device reads a ballot without any choices correctly recorded.

Central count systems and absentee ballots (historically over 70% of our voters vote by mail) are required to provide the voter with clear instructions on how to correct ballot errors and obtain new ballots where necessary (Section 301(b)).



All systems certified and used in the state of Washington have the audit capability required in Section 301 (2). Even in counties using DRE equipment, the overwhelming majority of voters record their votes on paper ballots because they vote by mail. The DRE equipment certified and used in the state has the capability of printing out the individual ballots for auditing purposes and those printouts have been used in at least one recount.

Four counties in the state are required to provide alternative language election materials. Those counties are monitored by DOJ and are substantially in compliance. All the voting systems in use in the state have the capability of providing alternative language ballots as required by Section 301 (4).

Both central punch card and optical scan systems are being upgraded, where necessary, to optical scan systems that meet the error rate requirements of Section 301 (5).

Washington Administrative Code defines what is a vote for each category of voting system used in Washington State, per Section 301 (6).

- (3) Each local jurisdiction in Washington is allowed to purchase and maintain its own voting systems. These systems must meet the requirements provided in statute (RCW 29A.60) and rule (WAC 434-333). Among these requirements is that the state will approve any system to be used for voting purposes. The Secretary of State's Office certifies that new voting equipment, as well as, upgrades and modifications to voting systems meet the State's requirements as set out in statute and rule.
- (4) See attached list entitled Appendix A for a list of voting systems by jurisdiction and date available.
- (5) Devices meeting Section 301 (3) are certified for use in Washington State and will be used in the next election after January 1, 2006. Election Systems and Software's (ES&S) AutoMARK Voter Assist Terminal (2002) was certified (NASED 1-16-22-12-001) for use in Washington State in June 2005. Most counties in Washington currently using the ES&S optical scan systems already have received HAVA funding to use the ES&S AutoMARK in the polling place and are working with ES&S to get them installed by January 1, 2006.

In addition, all the other vendors with systems currently in Washington plan to upgrade their DRE systems to meet the disability requirements and intend to submit them to Washington State in December 2005 and January 2006 for state certification. The DRE systems currently certified in Washington do not provide some accessibility features, such as voter control of the audio volume and speed, voter control of font size and automatic default of audio volume after each ballot cast. Under state law, these DRE systems are also required to provide a voter verified paper audit trail (VVPAT).

The counties are working with their vendors now to purchase disability access units for installation as soon as the units are available. We are working with all the counties to purchase accessible systems by the January 1, 2006 deadline.

Diebold has a disability access unit (DAU) with VVPAT successfully tested against HAVA standards (NASED 1-06-22-22-001 (2002)). Diebold plans to submit this unit to Washington State for certification in December.

Sequoia's DRE is certified for use in Washington as a voting system with VVPAT but not as a DAU. Sequoia plans to bring in a HAVA compliant DAU with VVPAT in January.

Hart's DRE is certified for use as a voting system but does not have a HAVA compliant DAU or VVPAT certified in our state. However, Hart has a DAU successfully tested against the HAVA standards (NASED 1-14-22-22-001 (2002)). Hart plans to upgrade its system in our state with a HAVA compliant DRE with VVPAT by December/January.

The following responds to your specific questions on Section 303(a) compliance.

- (1) Currently, a static statewide voter registration database exists in Washington and is updated twice a year. It has been maintained for use in verifying signatures on statewide petitions. A duplicate search has been made twice a year to correct duplicate registrations within the state. A statewide voter registration database meeting the requirements of HAVA is in beta testing and is expected to be in operation statewide on January 1, 2006.
- (2) Our statewide database is being developed by a team from the Secretary of State's Office and consultants from an outside vendor. A Request for Questions and Qualifications was issued in June of 2005, and a team of consultants was chosen from Microsoft to work on this project.
- (3) The deadline for implementation of the statewide voter registration database is January 1, 2006. We have included the project timeline with milestones in the documentation for question (4).
- (4) Washington's computerized statewide voter registration list will serve as the official list of legally registered voters in the state. A unique identifier is assigned to every legally registered voter and will remain with the voter as he or she relocates throughout the state. Before a person becomes a legally registered voter, the computerized list will validate that the registration is not a duplicate and compare the driver's license or social security number. If the person has neither a driver's license or social security number, the person will receive a unique identifier to vote.

The Secretary of State's Office has agreements with several state agencies. The Department of Licensing (DOL) has provided the complete current list of driver license numbers listed on their system. DOL is devising a mechanism whereby the last 4 digits of SSN with registrant's name and DOB can be checked against the Social Security Administration's database. The Washington State Patrol and Administrator of Courts have provided felony records for verification of ineligible voters. Department of Health has provided at scheduled times their most current listing of death records for deceased voter verification.

Local election officials have immediate access to enter and view information in the computerized list. The computerized list will be used to conduct all federal elections. Only persons from the computerized list will be eligible to vote.

All list maintenance performed is in compliance with the National Voter Registration Act of 1993. Felony status verifications will be performed on a quarterly basis at this time. Deceased status verifications will be performed on a monthly basis. Duplicate voter registrations are verified prior to making a person legally registered. To ensure that only ineligible voters are removed from the computerized list, election workers review records prior to being removed.

Security of the computerized list is a high priority for Washington State. An independent security consulting firm is performing a comprehensive security assessment to validate security of the computerized list. Washington's computerized voter registration list will be online by January 1, 2006.

A CD accompanies this letter containing all documentation regarding the development, design and operation of the statewide voter registration system. A web site publishing of this documentation is planned in the near future, but is not available at this time.

I hope we have given you all of the information you have requested. If you desire further information, please let us know. Washington State is making every effort to comply with the requirements of HAVA in a very orderly and measured fashion. Our goals have always been to encourage and enable every voter to participate in the election process, as well as to guide and assist the County Auditors in conducting accurate and fair elections. We appreciate any guidance you may wish to give us.

Sincerely,



SAM REED
Secretary of State

SR:pf